

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 19-cv-20424-UU

YMD RECORDS, LLC,

Plaintiff,

v.

ULTRA ENTERPRISES, INC., *et al.*,

Defendants.

ORDER TO SHOW CAUSE

THIS CAUSE comes before the Court *sua sponte*.

THE COURT has considered the pertinent portions of the record and is otherwise fully advised in the premises.

Plaintiff filed its complaint on February 1, 2019. It accuses the organizers of the Ultra Music Festival, the City of Miami Beach, and the Virginia Key Beach Trust of violating the Sherman Act by conspiring to book the Ultra Festival for the same venue at the same time as a music festival organized by Plaintiff. *See* D.E. 1. The complaint suffers from a facial defect: it does not allege that Plaintiff has suffered any sort of injury that would give it standing. Plaintiff alleges that it filed an application to hold its music festival at Virginia Key Beach. *Id.* Defendant, Ultra Enterprises, has also filed an application to use Virginia Key Beach at the same time. *Id.* To date, Plaintiff's application has not been granted or denied. Neither has Ultra Enterprises' application been rejected or denied. *Id.* Accordingly, Plaintiff has not set forth any cognizable injury.

Additionally, the Complaint fails on its face to plausibly allege any unlawful conspiracy or anticompetitive arrangement between Defendants. Plaintiff relies exclusively on conclusory allegations of conspiracy backed by no factual allegations whatsoever. Besides nearly two-dozen conclusory allegations of unlawful collusion, Plaintiff's case seems to hinge almost entirely on the following allegation: "[t]he ridiculousness of allowing Ultra music festival in such an environmentally friendly location is absurd and a clear signal of an antitrust violation." *Id.* ¶ 17. That allegation isn't a "clear signal" of anything, and so the Court must dismiss the complaint for failure to state a claim, but will grant leave to amend.

The Court warns Plaintiff that this will be Plaintiff's **one and only** chance to amend. If the Court must dismiss the complaint again for failure to state a claim, it will do so **with prejudice**. It is hereby

ORDERED AND ADJUDGED that the Complaint (D.E. 1) is DISMISSED WITHOUT PREJUDICE. If Plaintiff wishes to proceed with this case, it must file an amended complaint no later than **Wednesday, February 13, 2019**. Failure to do so will result in the immediate dismissal of the case without further notice.

DONE AND ORDERED in Chambers at Miami, Florida, this 4th day of February, 2019.


UNITED STATES DISTRICT JUDGE

cc: counsel of record via cm/ecf